IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7425 of 2007()

CRIME NO.309/07 OF NALLALAM POLICE STATION.

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PETITIONERS :

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1. ATTAKOYA.K., S/O/ SAKEER,
AGED 36 YEARS, KAYANAM PARAMBATH VEEDU,
PALAZHI PO., GURUVAYOORAPPAN COLLEGE,
KOZHIKODE DISTRICT.

2. HANEEFA, S/O. MUHAMMED,
AGED 33 YEARS, PICHAPURATH HOUSE,
PALAZHI PO., GURUVAYOORAPPAN COLLEGE,
KOZHIKODE DISTRICT.

3. ABDU ABDUL SHUKKOOR, S/O. ABOOBACKER,
AGD 33 YEARS, VALIYAKATH HOUSE,
PERUMANNA P.O., PERUMANNA AMSOM DESOM.

4. SUBAIR.T., S/O. MOIDEEN KOYA,
AGED 25 YEARS, PANAKKAL HOUSE,
KARUVANTHURUTHI P.O., FEROKE AMSOM,
NALLUR DESOM, KOZHIKODE DISTRICT.

5. MOIDEEN KOYA, C.K., S/O. SAIDALAVI,
AGED 31 YEARS, SUHARABI MANZIL,
KAPAKKAL, KALLAI P.O.,
PANNIYANKARA AMSOM DESOM.

6. SHINAS.K.V., S/O. HAMZA KOYA,
AGED 24 YEARS, KAICHAVALAPPIL HOUSE,
CHALIYAM P.O., KADALUNDI AMSOM DESOM.

7. MUJEEB.T.K., S/O. MOIDEEN KUTTY,
AGED 30 YEARS, KODUVAYAL HOUSE,
FEROKE P.O., NALLUR AMSOM DESOM.

BY ADV. SRI.K.P.MUJEEB

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, ALONG WITH BA NO. 7482 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos. 7425 & 7482 OF 2007

Dated this the 5th day of December, 2007

ORDER

Applications for regular bail. The petitioners are accused 1, 2, 3, 7, 8, 12, 14 and 15. They face allegations in a crime registered, inter alia, under Sec.307 read with Sec.149 of the IPC. There is allegedly tension in the locality between the workers of the N.D.F. and R.S.S. The incident in this case took place on 19/10/07. It is one of a series of incidents between the rival groups in the locality. It is alleged that on account of prior animosity, accused persons armed with dangerous weapons had attacked a Poojari of a temple – a person belonging to the R.S.S., who was passing by. Dangerous weapons were used and multiple injuries were inflicted on the victim. 13 accused persons are named in the F.I.R. About some of them, the informant makes specific

assertion of presence and participation. Some others, it is alleged that he came to know that they were also members of the said unlawful assembly. 13 accused persons are named in the F.I.R. Accused 14 and 15 have subsequently been arrayed as accused in the course of investigation. All the petitioners were arrested on 21/10/07. They continue in custody from that date.

2. The learned counsel for the petitioners submit that the petitioners are absolutely innocent. The learned counsel for the petitioners submit that the petitioners have no connection whatsoever with the N.D.F. Totally false allegations are being raised against the petitioners on account of political animosity. The petitioners, who have remained in custody from 21/10/07, may now be enlarged on bail subject to appropriate terms and conditions, pray the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application vehemently. The learned Public Prosecutor submits that the State is obliged to oppose these applications notwithstanding the fact that the petitioners were arrested on 21/10/07 because of the peculiar facts and circumstances. A tense law and order situation prevails in the locality. Earlier and subsequent to this incident there have been skirmishes between the persons belonging to the rival groups. Police find it very difficult to

maintain the law and order situation. The release of the petitioners on bail at this early stage would imperil the law and order situation in the locality.

4. The learned Public Prosecutor further submits that the gravity of the allegations may be taken into consideration. The wound certificate has been read over to me. It reveals the various injuries suffered on the person of the victim. The victim has now been discharged from the hospital, it is submitted.

5. The Case Diary has been placed before me for my perusal. I have perused the First Information Statement. I have perused the wound certificate. I have also perused the report submitted to the learned Public Prosecutor by the Investigating Officer which is placed before me by the learned Public Prosecutor.

6. Having considered all the relevant inputs, I am persuaded to agree that there is merit in the opposition by the learned Public Prosecutor. I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that in coming to the conclusion that the petitioners are not entitled to be enlarged on bail at this stage, I have taken note of the nature

and gravity of the allegations, the quantum and quality of the data collected, the stage of the investigation and the possible deleterious impact on the release of the petitioners on bail at this early stage would leave behind on the law and order situation in general and the investigation of this crime in particular. I agree that the learned Public Prosecutor is justified in opposing the applications now.

7. These bail applications are, in these circumstances, dismissed; but with the observation that the petitioners shall be at liberty to move this Court for bail again at a later stage of the investigation - not, at any rate, prior to 19/12/2007. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge